

July 28, 2023

## **Déjà Vu All Over Again: Senate Democratic Appropriators Restore Family Planning Policy and Increase Funding, Countering House Republican Cuts and Anti-SRHR “Riders”**

During full committee markup of the fiscal year (FY) 2024 State, Foreign Operations, and Related Programs (SFOPS) appropriations bill on July 20, the Democratic-controlled Senate Appropriations Committee approved a bipartisan bill on a vote of 27 to 2 that is widely divergent in its treatment of international family planning and reproductive health (FP/RH) funding and policy than the House version adopted by the Republican majority on a straight party-line vote. The [House bill](#) caps bilateral funding at a low level, legislatively imposes the expanded Global Gag Rule (GGR) in force during the Trump administration and prohibits a U.S. contribution to the United Nations Population Fund (UNFPA) as it did the last time Republicans controlled the committee four years ago. Conversely, the Senate version modestly increases funding above current levels, earmarks funding for UNFPA under long-standing conditions on the use of the U.S. contribution, reiterates existing abortion-related restrictions and rejects any new policy “riders.”

This tale of two bills sets up a similar dynamic for the final bill negotiation that has resulted in the same status quo outcome — flat FP/RH funding and no policy “riders” on GGR or UNFPA, either positive or negative — for the last 13 fiscal years. As one of the famous Yogi Berra-isms goes, “It’s like déjà vu all over again.”

But unlike prior years, there is a larger political context in which the 118th Congress is conducting the FY 2024 appropriations cycle, which may affect the outcome of sexual and reproductive health and rights (SRHR) issues. While Senate Democratic appropriators have reached across the aisle to forge bipartisan bills, many approved by unanimous roll-call votes by the full committee membership, House Republicans have moved to construct highly partisan products with catastrophic proposed funding cuts and extreme, ideological, [“culture war” policy “riders”](#) attached that have attracted zero support from committee Democrats on the 10 subcommittee bills that have been marked up so far. Appropriators in both chambers historically have prided themselves on the rational, pragmatic manner in which they go about fulfilling their primary responsibility of funding the federal government every year. This year, House Republican appropriators have entirely abandoned that traditional ethos.

### **Funding**

According to an [analysis](#) by the U.S. Global Leadership Coalition, the Senate committee-approved FY 2024 State-foreign operations bill ([S. 2438](#)) would provide the bulk of the proposed \$60.3 billion in non-emergency funding appropriated for international affairs programs, with marginal amounts for global assistance allocated in the Agriculture and Commerce, Justice and Science subcommittee bills.

This total proposed amount is \$1.3 billion less than the FY 2023 enacted level and \$10.6 billion or 15% below the FY 2024 president’s budget request. However, enactment of the Senate funding allocation would be \$6 billion or 11% more than that approved by their House counterparts, but only if one makes the dubious assumption that the House GOP bill’s reliance on the budget gimmick of rescinding \$11.1 billion in prior-year appropriations for the Environmental Protection Agency to achieve its \$54.4 billion total will be accepted by the White House and the Senate.

On the morning of July 20, the Senate Appropriations Committee, bypassing formal subcommittee markups and going straight to the full committee, conducted an efficient, serious and non-performative [markup](#) of

three subcommittee bills — Energy and Water Development, State-foreign operations and Transportation, Housing and Urban Development. In perhaps a subtle dig at her House Republican colleagues, new full committee Chair Patty Murray (D-WA) said in her opening remarks that her goal for the committee, along with her Vice Chair Susan Collins (R-ME), is to produce “serious appropriations bills that can actually be signed into law.” All 12 subcommittee bills have now been approved by the committee as of today. Of the 12, eight have enjoyed bipartisan unanimity with all Democratic and Republican members present voting to report the bills favorably for the full Senate’s consideration. State-foreign operations was one of only four bills not adopted unanimously and advanced by a 27-to-2 vote with only Senators Marco Rubio (R-FL) and Deb Fischer (R-NE) voting in opposition.

## Shaheen Amendment

The base text of the State-foreign operations bill agreed to by SFOPS subcommittee Chair Chris Coons (D-DE) and Ranking Member Lindsey Graham (R-SC) included flat-line funding for bilateral and multilateral FP/RH funding at the FY 2023 appropriated level of \$607.5 million. During full committee markup, Sen. Jeanne Shaheen (D-NH) successfully offered an [amendment](#) to modestly increase FP/RH funding in FY 2024. The Shaheen amendment:

- Earmarks “not less than” \$600 million for bilateral FP/RH programs, an increase of \$25 million, and specifies in the [report language](#) accompanying the bill that within the total bilateral amount, \$548.95 million should come from the Global Health Programs account and \$51.05 million from the Economic Support Fund.
- Earmarks a U.S. contribution to UNFPA of “not less than” \$35.1 million, a \$2.6 million addition to the \$32.5 million amount contained in the draft subcommittee bill, within the International Organizations and Programs account.

The Shaheen amendment was adopted on a bipartisan vote of 16 to 13 with Vice Chair Collins and Sen. Lisa Murkowski (R-AK) joining all Democrats, except Sen. Joe Manchin (D-WV), in support, and all other Republicans plus Manchin in opposition.

If the amounts adopted by the committee with passage of the Shaheen amendment were to be enacted into law, total bilateral and multilateral FP/RH funding would be \$635.1 million, an increase of \$27.6 million (4.5%) above the current FY 2023 enacted level and \$174 million or 38% more than the level set in the House committee-approved bill. However, the amended bill amount is still \$42 million or 6% less than the \$677.2 million requested by the Biden-Harris administration for FY 2024.

(in millions of dollars)	FY 2023 Enacted (P.L. 117-328)	FY 2024 President’s Budget Request	FY 2024 House Committee-Approved Bill (H.R. 4665)	FY 2024 Senate Committee-Approved Bill (S. 2438)
Global Health Programs (GHP) account	(523.95)	600.0	--	(548.95)
Economic Support Fund (ESF)	(51.05)	19.3	--	(51.05)
Assistance for Europe, Eurasia and Central Asia (AEECA)	--	0.4	--	--
<b>TOTAL, bilateral FP/RH</b>	<b>575.0</b>	619.7	(461.0)	<b>600.0</b>
U.S. contribution to UNFPA (IO&P)	<b>32.5</b>	57.5	0.0	<b>35.1</b>
<b>TOTAL, bilateral &amp; multilateral FP/RH</b>	607.5	677.2	<b>461.0</b>	(635.1)

During a short, four-minute debate on her amendment, Sen. Shaheen reminded committee members that international FP/RH funding has been stagnant for a dozen years “despite inflation reducing how far family planning dollars go, while unmet needs go unanswered.” She continued, “By increasing funding to support bilateral and international family planning, we have the capacity to meet some of that unmet need.” Sen. Shaheen offered an estimate of the positive impact of the funding increase she proposed on the reproductive and maternal health of women and couples in U.S.-assisted countries, utilizing the [Guttmacher Institute’s formula](#) to calculate. In another déjà vu moment, subcommittee Ranking Member Graham dutifully recited his perennial warning that this amendment “will not go over well in the House” due to wide Republican opposition to funding anything remotely linked to abortion. To which subcommittee Chair Coons and Sen. Shaheen reminded Sen. Graham that the proposed amendment before him did not alter any of the long-standing abortion-related restrictions in current law and Sen. Shaheen gently correcting him that “this is not the global gag debate that we have had in the past,” noting her amendment just increases the amount of funding for FP/RH programs.

## Policy “Riders” – Nothing New, but Legacy Remains

In fairness to Sen. Graham, there is perhaps a charitable explanation why he might have been legitimately confused about the contents of this year’s iteration of the Shaheen amendment. For the six years from FY 2014 up until FY 2019, Sen. Shaheen successfully offered, with bipartisan support, an amendment in full committee markup of the State-foreign operations bill that combined funding increases and a legislative codification of [GGR repeal](#). Such Shaheen amendments were consistently adopted by the committee by bipartisan votes even during the last four of those years when Republicans had the majority, and Sen. Graham chaired the subcommittee.

This year, however, in an attempt to return the Senate appropriations process to “regular order” (committee-approved bills, brought to the Senate floor and passed), Chair Murray and Vice Chair Collins made an agreement to oppose any efforts to attach new policy “riders” to bills coming out of the Senate Appropriations Committee. Even though committee-approved State-foreign operations bills have contained GGR repeal provisions for 19 fiscal years from FY 2001 to FY 2019, none have ever been enacted into law. As a result, a Shaheen amendment containing a GGR repeal would be judged to be a new policy “rider” under the terms of their agreement, and Chair Murray and Vice Chair Collins would have voted against such an amendment, resulting in its defeat. Sen. Shaheen pivoted and secured their votes on a funding-only amendment. (And there is potential value of having Vice Chair Collins on the record agreeing that a FP/RH funding increase is not an unacceptable “poison pill rider,” as Senate Republican leaders have successfully used this erroneous notion to reject any funding increases in end-game spending bill negotiations for the last several years.)

The committee-approved bill contains an unaltered recitation of the [current law policy provisions](#) including restrictions on abortion-related activities with U.S. government funds and requirements to ensure voluntarism and informed consent in U.S.-supported programs. In addition to no GGR repeal codification as well as reiterations of the Helms amendment, other technical changes requested by SRHR advocates are not included, such as ensuring that FP/RH programs are treated the same as other global health sectors when U.S. foreign assistance is cut-off to governments that are in violation of country aid restrictions and allowing contraceptive commodities to be purchased and distributed under the more efficient and cost-effective procurement mechanism of the HIV Working Capital Fund.

## What’s Next?

At the end of this week, Congress will depart Washington for a month-long August recess, not returning until after Labor Day. Neither the House nor the Senate will take their committee-approved versions of the State-foreign operations bills to the floors of their respective chambers before September — if ever. The House committee-approved bill is already so bad, debating the State-foreign operations bill on the House floor would likely only make it worse, depending on Speaker McCarthy’s ability to reign in the Freedom Caucus contingent and whether far-right opponents would be allowed to offer hostile funding and policy amendments under the rules for consideration of the bill. Senate rules make it a less risky proposition to SRHR champions for the committee-approved bill to be brought to the floor as any opposing amendment would need to meet the 60-vote threshold necessary for consideration — a difficult proposition in a Senate with 52 solid votes that would likely reject such attempts.

Events this week in the House have further highlighted the difficulty that Republican leadership is facing in handling ultra-conservative members in their caucus, who have threatened to oppose appropriations bills scheduled for floor action. The two remaining subcommittee bills scheduled full committee markup this week were pulled off the calendar. With Senate appropriators completing markup of their remaining four subcommittee bills yesterday, that chamber has made more progress than the House by approving all 12 appropriations bills before them and doing so this early in the session, a rare occurrence.

With the end of the fiscal year looming on September 30, a limited number of legislative days between now and then and House Freedom Caucus members making even more unreasonable demands for further draconian funding cuts and ideological policy riders, the prospects for a government shutdown on October 1 — or the need for a long-term continuing resolution to keep the government open — grow. Stay tuned.